

Executive Summary – Enforcement Matter – Case No. 38037
A. & P. WATER SUPPLY CORPORATION
RN101216521
Docket No. 2012-2183-PWS-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Indifference to legal duty based on violation of a previous order.

Media:

PWS

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

A. & P. WATER SUPPLY CORPORATION PUMP 1, Farm-to-Market Road 2517, 2.0 miles east of U.S. Highway 59, Carthage, Panola County

Type of Operation:

Public water supply

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: February 22, 2013

Comments Received: No

Penalty Information

Total Penalty Assessed: \$2,728

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$2,728

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Unclassified

Site/RN - N/A

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002

Executive Summary – Enforcement Matter – Case No. 38037
A. & P. WATER SUPPLY CORPORATION
RN101216521
Docket No. 2012-2183-PWS-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: August 16, 2012

Date(s) of NOE(s): October 4, 2012

Violation Information

1. Failed to restrict livestock from occupying land within 50 feet of a water supply well [30 TEX. ADMIN. CODE § 290.41(c)(1)(D) and TCEQ Agreed Order Docket No. 2009-1208-PWS-E, Ordering Provision No. 2.a.ii.].

2. Failed to maintain the Facility's 4,000 gallon ground storage tank ("GST") in strict accordance with American Water Works Association ("AWWA") requirements [30 TEX. ADMIN. CODE § 290.43(c)(8) and TCEQ Agreed Order Docket No. 2009-1208-PWS-E, Ordering Provision No. 2.c.ii.].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

N/A

Technical Requirements:

The Order will require Respondent to:

- a. Within 120 days, obtain an exception to the requirement prohibiting livestock from occupying the land within 50 feet of the well location;
- b. Within 135 days, submit written certification demonstrating compliance with Ordering Provision a.;
- c. Within 275 days, repair or replace the Facility's 4,000 gallon GST to ensure that the tank is being maintained in strict accordance with all AWWA requirements; and
- d. Within 290 days, submit written certification demonstrating compliance with Ordering Provision c.

Litigation Information

Date Petition(s) Filed: N/A

Date Answer(s) Filed: N/A

SOAH Referral Date: N/A

Hearing Date(s): N/A

Settlement Date: N/A

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A. & P. WATER SUPPLY CORPORATION
RN101216521
Docket No. 2012-2183-PWS-E

Contact Information

TCEQ Attorney: N/A

TCEQ Enforcement Coordinator: Abigail Lindsey, Enforcement Division,
Enforcement Team 2, MC 169, (512) 239-2576; Debra Barber, Enforcement Division,
MC 219, (512) 239-0412

TCEQ SEP Coordinator: N/A

Respondent: Troy Woodard, President, A. & P. WATER SUPPLY CORPORATION,
P.O. Box 322, Carthage, Texas 75633

Mike Bowers, Secretary/Treasurer, A. & P. WATER SUPPLY CORPORATION, P.O. Box
322, Carthage, Texas 75633

Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

ICEQ

DATES	Assigned PCW	1-Oct-2012	Screening	26-Oct-2012	EPA Due	
		29-Oct-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	A. & P. WATER SUPPLY CORPORATION		
Reg. Ent. Ref. No.	RN101216521		
Facility/Site Region	5-Tyler	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	38037	No. of Violations	2
Docket No.	2012-2183-PWS-E	Order Type	Findings
Media Program(s)	Public Water Supply	Government/Non-Profit	Yes
Multi-Media		Enf. Coordinator	Abigail Lindsey
		EC's Team	Enforcement Team 2
Admin. Penalty \$ Limit Minimum	\$50	Maximum	\$1,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** \$2,200

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **24.0%** Enhancement **Subtotals 2, 3, & 7** \$528

Notes

Enhancement for two NOV's with dissimilar violations and one final agreed enforcement order containing a denial of liability.

Culpability

No

0.0%

Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments

Subtotal 5 \$0

Economic Benefit

0.0% Enhancement*

Subtotal 6 \$0

Total EB Amounts \$575
Approx. Cost of Compliance \$2,200

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$2,728

OTHER FACTORS AS JUSTICE MAY REQUIRE

0.0%

Adjustment \$0

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount \$2,728

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$2,728

DEFERRAL

0.0%

Reduction

Adjustment \$0

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY

\$2,728

Screening Date 26-Oct-2012

Docket No. 2012-2183-PWS-E

PCW

Respondent A. & P. WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 38037

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101216521

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	0	0%
	Other written NOVs	2	4%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	1	20%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 24%

>> Repeat Violator (Subtotal 3)

N/A

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Unclassified

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for two NOVs with dissimilar violations and one final agreed enforcement order containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 24%

Screening Date 26-Oct-2012

Docket No. 2012-2183-PWS-E

PCW

Respondent A. & P. WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 38037

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101216521

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 1

Rule Cite(s) 30 Tex. Admin. Code § 290.41(c)(1)(D) and TCEQ Agreed Order Docket No. 2009-1208-PWS-E, Ordering Provision No. 2.a.ii.

Violation Description

Failed to restrict livestock from occupying land within 50 feet of a water supply well. Specifically, on the date of the investigation, livestock were noted to be grazing within 30 feet of the wellhead and the Respondent had not obtained an exception for the cattle to graze within 50 feet of the wellhead.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Failure to keep livestock at least 50 feet from the well could expose customers of the Facility to a significant amount of contaminants, which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 11

964 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	x
	semiannual	
	annual	
	single event	

Violation Base Penalty \$1,100

Eleven quarterly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1208-PWS-E, March 8, 2010, to the screening date, October 26, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$52

Violation Final Penalty Total \$1,364

This violation Final Assessed Penalty (adjusted for limits) \$1,364

Economic Benefit Worksheet

Respondent A. & P. WATER SUPPLY CORPORATION

Case ID No. 38037

Reg. Ent. Reference No. RN101216521

Media Public Water Supply

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$200	8-Mar-2010	1-Dec-2013	3.74	\$2	\$50	\$52
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to obtain an exception to the rule requirement that is approved by the Commission, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1208-PWS-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$200

TOTAL

\$52

Screening Date 26-Oct-2012

Docket No. 2012-2183-PWS-E

PCW

Respondent A. & P. WATER SUPPLY CORPORATION

Policy Revision 2 (September 2002)

Case ID No. 38037

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN101216521

Media [Statute] Public Water Supply

Enf. Coordinator Abigail Lindsey

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 290.43(c)(8) and TCEQ Agreed Order Docket No. 2009-1208 PWS-E, Ordering Provision No. 2.c.ii.

Violation Description

Failed to maintain the Facility's 4,000 gallon ground storage tank ("GST") in strict accordance with American Water Works Association requirements. Specifically, the GST is in need of painting and has significant rust on top.

Base Penalty \$1,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential		x	

Percent 10%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0%

Matrix Notes

Failure to maintain the GST could expose customers of the Facility to a significant amount of contaminants, which would not exceed levels that are protective of human health.

Adjustment \$900

\$100

Violation Events

Number of Violation Events 11

964 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$1,100

Eleven quarterly events are recommended, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1208-PWS-E, March 8, 2010, to the screening date, October 26, 2012.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,100

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$523

Violation Final Penalty Total \$1,364

This violation Final Assessed Penalty (adjusted for limits) \$1,364

Economic Benefit Worksheet

Respondent A. & P. WATER SUPPLY CORPORATION

Case ID No. 38037

Reg. Ent. Reference No. RN101216521

Media Public Water Supply

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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No commas or \$

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$2,000	8-Mar-2010	1-Dec-2013	3.74	\$25	\$498	\$523
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

The delayed costs include the estimated amount to repair the GST, calculated from the effective date of TCEQ Agreed Order Docket No. 2009-1208-PWS-E to the estimated date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$2,000

TOTAL

\$523

The TCEQ is committed to accessibility.

To request a more accessible version of this report, please contact the TCEQ Help Desk at (512) 239-4357.



TCEQ Compliance History Report

PENDING Compliance History Report for CN600658843, RN101216521, Rating Year 2012 which includes Compliance History (CH) components from September 1, 2007, through August 31, 2012.

Customer, Respondent, or Owner/Operator: CN600658843, A. & P. WATER SUPPLY CORPORATION **Classification:** UNCLASSIFIED **Rating:** -----

Regulated Entity: RN101216521, A. & P. WATER SUPPLY CORPORATION PUMP 1 **Classification:** NOT APPLICABLE
Rating: N/A

Complexity Points: N/A

Repeat Violator: N/A

CH Group: 14 - Other

Location: FARM-TO-MARKET ROAD 2517 2.0 MILES EAST OF US HIGHWAY 59, PANOLA COUNTY, TEXAS

TCEQ Region: REGION 05 - TYLER

ID Number(s):

PUBLIC WATER SYSTEM/SUPPLY REGISTRATION
1830017

WATER LICENSING LICENSE 1830017

Compliance History Period: September 01, 2007 to August 31, 2012 **Rating Year:** 2012 **Rating Date:** 09/01/2012

Date Compliance History Report Prepared: October 08, 2012

Agency Decision Requiring Compliance History: Enforcement

Component Period Selected: October 08, 2007 to October 08, 2012

TCEQ Staff Member to Contact for Additional Information Regarding This Compliance History.

Name: Abigail Lindsey

Phone: (512) 239-2576

Site and Owner/Operator History:

- 1) Has the site been in existence and/or operation for the full five year compliance period? YES
- 2) Has there been a (known) change in ownership/operator of the site during the compliance period? NO
- 3) If YES for #2, who is the current owner/operator? N/A
- 4) If YES for #2, who was/were the prior owner(s)/operator(s)? N/A
- 5) If **YES**, when did the change(s) in owner or operator occur? N/A

Components (Multimedia) for the Site Are Listed in Sections A - J

A. Final Orders, court judgments, and consent decrees:

1 Effective Date: 03/08/2010 ADMINORDER 2009-1208-PWS-E (1660 Order)

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(F)

Description: Failed to obtain a sanitary control easement that covers the land within 150 feet of the well or to obtain Executive Director approval for a substitute to the sanitary control easement requirement, as documented during an investigation conducted on April 30, 2009.

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.41(c)(1)(D)

Description: Failed to restrict livestock from occupying land within 50 feet of water supply well, as documented during an investigation conducted on April 30, 2009.

Classification: Minor

Citation: 30 TAC Chapter 290, SubChapter D 290.43(c)(8)

Description: Failed to maintain the Facility's 4,000 gallon ground storage tank in strict accordance with American Water Works Association ("AWWA") requirements, as documented during an investigation conducted on April 30, 2009

Classification: Moderate

Citation: 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv)

5A THSC Chapter 341, SubChapter A 341.0315(c)

Description: Failed to provide a pressure tank capacity of 20 gallons per connection in the Well Pressure Plane, as documented during an investigation conducted on April 30, 2009.

B. Criminal convictions:

N/A

C. Chronic excessive emissions events:

N/A

D. The approval dates of investigations (CCEDS Inv. Track. No.):

Item 1 July 06, 2010 (827205)

E. Written notices of violations (NOV) (CCEDS Inv. Track. No.):

A notice of violation represents a written allegation of a violation of a specific regulatory requirement from the commission to a regulated entity. A notice of violation is not a final enforcement action, nor proof that a violation has actually occurred.

- | | |
|--------------|--|
| 1 | Date: 10/10/2011 (952141) CN600658843 |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.43(c)(4) |
| Description: | Failure to equip the ground storage tank with a working water level indicator. |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.44(h)(1) |
| Description: | Failure to prohibit water connection to a residence or establishment where an actual or potential contamination or system hazard exists. |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.44(h)(4) |
| Description: | Failure to perform annual inspections and testing by a certified backflow assembly tester on all backflow prevention assemblies. |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(d)(2)(B) |
| Description: | Failure to maintain a total chorine residual of at least 0.5 mg/L throughout the distribution system. |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.46(s)(1) |
| Description: | Failure by the regulated entity to calibrate well meters at least every three years. |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter F 290.110(d)(2) |
| Description: | Failure to measure chloramine residual to a minimum accuracy of plus or minus 0.1 mg/L. |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i) |
| Description: | Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include providing two wells with a capacity of 0.6 gallons per minute per connection. |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv) |
| Description: | Failure to provide an elevated storage capacity of 100 gallons per connection. |
| | |
| 2 | Date: 11/30/2011 (969061) CN600658843 |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.44(h)(1) |
| Description: | Failure to prohibit water connection to a residence or establishment where an actual or potential contamination or system hazard exists. |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(i) |
| Description: | Failure to meet this Agency's "Minimum Water System Capacity Requirements." These requirements include providing two wells with a capacity of 0.6 gallons per minute per connection. |
| Self Report? | NO Classification: Minor |
| Citation: | 30 TAC Chapter 290, SubChapter D 290.45(b)(1)(C)(iv) |
| Description: | Failure to provide an elevated storage capacity of 100 gallons per connection. |

F. Environmental audits:

N/A

G. Type of environmental management systems (EMSs):

N/A

H. Voluntary on-site compliance assessment dates:

N/A

I. Participation in a voluntary pollution reduction program:

N/A

J. Early compliance:

N/A

Sites Outside of Texas:

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
A. & P. WATER SUPPLY
CORPORATION
RN101216521**

**§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2012-2183-PWS-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding A. & P. WATER SUPPLY CORPORATION (the "Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 341. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a public water supply on Farm-to-Market Road 2517, 2.0 miles east of United States Highway 59 in Panola County, Texas (the "Facility") that

has approximately 203 service connections and serves at least 25 people per day for at least 60 days per year.

2. During an investigation conducted on August 16, 2012, TCEQ staff documented that livestock were noted to be grazing with 30 feet of the wellhead.
3. During an investigation conducted on August 16, 2012, TCEQ staff documented that the Facility's ground storage tank ("GST") is in need of painting and has significant rust on top.
4. The Respondent received notice of the violations on October 9, 2012.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. HEALTH & SAFETY CODE ch. 341 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 2, the Respondent failed to restrict livestock from occupying land within 50 feet of a water supply well, in violation of 30 TEX. ADMIN. CODE § 290.41(c)(1)(D) and TCEQ Agreed Order Docket No. 2009-1208-PWS-E, Ordering Provision No. 2.a.ii.
3. As evidenced by Findings of Fact No. 3, the Respondent failed to maintain the Facility's 4,000 gallon GST in strict accordance with American Water Works Association ("AWWA") requirements, in violation of 30 TEX. ADMIN. CODE § 290.43(c)(8) and TCEQ Agreed Order Docket No. 2009-1208-PWS-E, Ordering Provision No. 2.c.ii.
4. Pursuant to TEX. HEALTH & SAFETY CODE § 341.049, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
5. An administrative penalty in the amount of Two Thousand Seven Hundred Twenty-Eight Dollars (\$2,728) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. HEALTH & SAFETY CODE § 341.049(b). The Respondent has paid the Two Thousand Seven Hundred Twenty-Eight Dollar (\$2,728) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Two Thousand Seven Hundred Twenty-Eight Dollars (\$2,728) as set forth in Section II, Paragraph 5 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: A. & P. WATER SUPPLY CORPORATION, Docket No. 2012-2183-PWS-E" to:

Financial Administration Division, Revenue Operations Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 120 days after the effective date of this Agreed Order, obtain an exception to the requirement prohibiting livestock from occupying the land within 50 feet of the well location pursuant to 30 TEX. ADMIN. CODE § 290.41.
 - b. Within 135 days after the effective date of this Agreed Order, submit written certification as described in Ordering Provision No. 2.d. below, and include detailed supporting documentation including photographs, receipts, and/or records to demonstrate compliance with Ordering Provision No. 2.a.
 - c. Within 275 days after the effective date of this Agreed Order, repair or replace the Facility's 4,000 gallon GST to ensure that the tank is being maintained in strict accordance with all AWWA requirements, in accordance with 30 TEX. ADMIN. CODE § 290.43.
 - d. Within 290 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provision No. 2.c. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section Manager
Tyler Regional Office
Texas Commission on Environmental Quality
2916 Teague Drive
Tyler, Texas 75701-3734

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
5. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
6. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
7. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1)

enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.

8. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
9. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

Pam Davis
For the Executive Director

3/3/13

Date

I, the undersigned, have read and understand the attached Agreed Order in the matter of A. & P. WATER SUPPLY CORPORATION. I am authorized to agree to the attached Agreed Order on behalf of A. & P. WATER SUPPLY CORPORATION, and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, A. & P. WATER SUPPLY CORPORATION waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Mike Bowers
Signature

12-19-12
Date

Mike Bowers
Name (Printed or typed)
Authorized Representative of
A. & P. WATER SUPPLY CORPORATION

Sec-Treas
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenue Operations Section at the address in Section III, Paragraph 1 of this Agreed Order.